

Amended MDR Tracking Number: M5-04-2179-01 (**Previously M5-03-2620-01**)

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution – General and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a dispute resolution review was conducted by the Medical Review Division regarding a medical payment dispute between the requestor and the respondent named above. This dispute was received 6-16-03.

This AMENDED FINDINGS AND DECISION supersedes M5-04-2620-01 rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 2-10-04 was appealed by both the requestor and respondent and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 3-15-04. An Order was rendered in favor of the Requestor. The Requestor appealed the Order to an Administrative Hearing because "DOS 8-16-02 (99213) was erroneously denied by the dispute officer as having been paid. The only EOB in our possession shows this service as having been denied payment by the carrier with the rational "D" duplicate billing. This is not a duplicate bill nor has this service been paid by the carrier.

DOS 10-7-02 (97750-FC) was denied by the dispute officer stating that documentation of the service was not provided. This is also an error. The FCE (Ergos) report was included in the packet which was provided to the Commission on two occasions.

DOS 10-28-02 (97250, 97265) were denied by the dispute officer as 'SOAP notes do not support delivery of service' however, these services are clearly identified in the SOAP notes on the dates in question."

## **I. DISPUTE**

Whether there should be reimbursement for office visits with manipulations, muscle testing, therapeutic procedures, myofascial release, joint mobilization, manual traction and special reports rendered from 8-16-02 through 10-28-02.

## **II. RATIONALE**

The IRO reviewed office visits with manipulations, muscle testing, therapeutic procedures, myofascial release, joint mobilization, manual traction and special reports rendered from 9-12-02, 10-14-02 through 10-23-02, and 99213 on 10-24-02 and 10-28-02 that were denied based upon "U" and "V."

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the

respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On October 2, 2003, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

House Bill 2600 abolished the treatment guidelines effective January 1, 2002; therefore, the insurance carrier incorrectly denied disputed service with EOB denial code "T." Disputed services denied with EOB denial code "T" will be reviewed in accordance with the Commission's *Medical Fee Guideline*.

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified above. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
8-16-02	97265	\$46.00	\$0.00	T	\$43.00	HB-2600	MAR reimbursement of \$43.00 is recommended.
8-16-02	99213	\$51.00	\$0.00	D	\$48.00	Evaluation & Management GR (VI)	On this date, the requestor billed for two (2) office visits, the requestor does not provide any justification as to billing for them on same date. No reimbursement is recommended.
8-20-02	97010	\$11.00	\$0.00	T	\$11.00	HB-2600	MAR reimbursement of \$11.00 is recommended.
8-21-02	95851 (2)	\$76.00	\$0.00	T	\$36.00 / ea X 2 = \$72.00	HB-2600	MAR reimbursement of \$72.00 is recommended.
9-4-02 10-24-02 10-28-02	97110 (3)	\$111.00	\$0.00	No EOB	\$35.00 / 15 min X 3 = \$105.00	CPT Code Descriptor MAR	See Rationale below.

9-4-02 10-24-02 10-28-02	97122	\$37.00	\$0.00	No EOB	\$35.00 / 15 min	CPT Code Descriptor MAR	MAR reimbursement of \$35.00 X 3 dates = \$105.00 is recommended.
9-4-02 10-24-02 10-28-02	97250	\$46.00	\$0.00	No EOB	\$43.00	CPT Code Descriptor MAR	MAR reimbursement of \$43.00 X 3 dates = \$129.00 is recommended.
9-4-02 10-24-02 10-28-02	97265	\$46.00	\$0.00	No EOB	\$43.00	CPT Code Descriptor MAR	MAR reimbursement of \$43.00 X 3 dates = \$129.00 is recommended.
9-4-02	99213	\$51.00	\$0.00	No EOB	\$48.00	CPT Code Descriptor MAR	MAR reimbursement of \$48.00 is recommended.
9-16-02	97110 (3)	\$111.00	\$0.00	F	\$35.00 / 15 min X 3 = \$105.00	CPT Code Descriptor MAR	See Rationale below.
10-3-02	97110	\$111.00	\$71.00	F	\$35.00 / 15 min X 3 = \$105.00	CPT Code Descriptor MAR	See Rationale below.
10-7-02	97750FC (4)	\$420.00	\$400.00	F	\$100.00 / hr	Insurance Carrier's Response	MAR reimbursement was made, no additional reimbursement is recommended.
10-14-02 10-15-02 10-16-02 10-17-02	99213MP	\$51.00	\$0.00	F	\$48.00	Insurance Carrier's Response	MAR reimbursement of \$48.00 for each date has been made. No additional reimbursement is recommended.
TOTAL							The requestor is entitled to reimbursement of <b>\$619.00.</b>

#### Rationale for 97110:

Recent review of disputes involving one-on-one CPT code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The therapy notes for these dates of service do not support any clinical (mental or physical) reason as to why the patient could not have performed these exercises in a group setting, with supervision, as opposed to one-to-one therapy. The Requestor has failed to submit documentation to support reimbursement in accordance with the 1996 MFG and 133.307(g)(3). Therefore, reimbursement is not recommended.

### III. AMENDED DECISION & ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8)

plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 8-16-02 through 10-28-02 in this dispute.

The above Amended Findings and Decision are hereby issued this 22<sup>nd</sup> day of September 2004.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

February 9, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION  
Amended Letter C**

**RE: MDR Tracking #: M5-03-2620-01**  
**New MDR Tracking #: M5-04-2179-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel. This \_\_\_ reviewer has been certified for level 2 of the TWCC ADL requirements. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

**Clinical History**

This case concerns a 22 year-old male who sustained a work related injury on \_\_\_. The patient reported that while at work he fell from the 8<sup>th</sup> floor to the 7<sup>th</sup> floor injuring his back, thighs and neck. The patient underwent an MRI on 8/29/02 that indicated T11-T12 mild/moderated disc spondylosis, L2-L3 slight flexion abnormality with moderate disc/annular spondylosis, and L3-L4 moderated disc and annular spondylosis without

stenosis. The patient has also undergone X-Rays of the elbow, cervical spine, femur, lumbar spine and thoracic spine. The diagnoses for this patient have included acquired spondylolisthesis, segmental dysfunction of lumbar region, contusion of thighs and neck sprain. The patient has been treated with chiropractic care that included manipulations, physical therapy, rehabilitation, joint mobilization, hot/cold pack, massage therapy, mechanical traction, myofascial release, interferential stimulation and therapeutic exercises.

### **Requested Services**

Office visits with manipulations, muscle testing, therapeutic procedure, myofascial release, joint mobilization, manual traction, special reports on 9/12/02, 10/14/02 through 10/23/02, 10/24/02-CPT code 99213-MP only, 10/28/02 CPT code 99213-MP only (Do not review CPT code 99213-MP for dates of service 10/14/02, 10/15/02, 10/16/02 and 10/17/02, fee issues).

### **Decision**

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### **Rationale/Basis for Decision**

The \_\_\_ chiropractor reviewer noted that this case concerns a 22 year-old male who sustained a work related injury to his back, thighs and neck on \_\_\_. The \_\_\_ chiropractor reviewer also noted that the patient was treated with chiropractic care that include manipulations, physical therapy, rehabilitation, joint mobilization, hot/cold packs, massage therapy, mechanical traction, myofascial release, interferential stimulation and therapeutic exercises. The \_\_\_ chiropractor reviewer explained that the American Association of Orthopedic Surgeons guidelines for spondylolithesis recommends up to 10 weeks of treatment prior to a possible surgery or advanced therapy. (AAOS 1996: Low Back Treatment Guidelines.) The \_\_\_ chiropractor reviewer also explained that the back treatment and reports rendered on 9/12/02, 10/14/02 through 10/23/02, 10/24/02 and 10/28/02 were medically necessary and appropriate to treat this patient's spondylolithesis. The \_\_\_ chiropractor reviewer indicated that the muscle testing was medically necessary in order to track the patient's progress in therapy. Therefore, the \_\_\_ chiropractor consultant concluded that the muscle testing, treatment and reports rendered on 9/12/02, 10/14/02 through 10/23/02, 10/24/02 and 10/28/02 were medically necessary to treat this patient's condition.

Sincerely,

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